

S. C. R. No. 25 was then adopted.

#### Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the adoption of the above resolution.

#### House Bill 138 Ordered Not Printed

On motion of Senator Martin and by unanimous consent H. B. No. 138 was ordered not printed.

#### Welcome Resolutions

S. R. No. 65, By Senator Fuller: Extending welcome to Mr. and Mrs. George Booz and Mrs. Louise McInnis of Port Arthur.

S. R. No. 66, By Senator Krueger: Extending welcome to Mr. and Mrs. John Hancock and daughter Susan of El Campo.

#### Adjournment

On motion of Senator Hardeman the Senate at 3:34 o'clock p.m. adjourned until 10:30 o'clock a.m. on Monday, August 7, 1961.

### THIRTEENTH DAY

(Monday, August 7, 1961)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the

Journal of the proceedings of Saturday, August 5, 1961, was dispensed with and the Journal was approved.

#### Bills and Resolutions Signed

The President signed in the presence of the Senate after the captions had been read, the following enrolled bills and resolutions:

S. B. No. 21, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as 'Chantilly Oaks Municipal Utility District; etc., and declaring an emergency.'"

S. B. No. 33, A bill to be entitled "An Act amending Sec. 2 of Chapter 114, page 207, Acts of the 51st Legislature, Regular Session, 1949, codified as Art. 2815n. V.C.S., so as to provide for an alternate method for apportionment and election of trustees; validating all Junior College Districts heretofore organized and created, including certain Junior College Districts which have been dormant; repealing all laws in conflict herewith; providing a savings clause; providing this law shall not apply to any District or any bonds now in litigation; and declaring an emergency."

S. C. R. No. 4, Granting permission to Natural Gas Products Company of America to sue the State of Texas.

S. C. R. No. 5, Granting permission to Roy D. Payne, Agent, to sue the State of Texas.

S. C. R. No. 6, Granting the Comanche Company permission to sue the State of Texas.

S. C. R. No. 7, Granting Owego Gas Transmission Company permission to sue the State of Texas.

S. C. R. No. 13, Granting C. F. Rickenbacker and wife permission to sue the State of Texas.

S. C. R. No. 22, Suspending Joint Rules so either House may consider S. B. No. 64 at any time.

#### Senate Concurrent Resolution 26

Senator Parkhouse offered the following resolution:

S. C. R. No. 26, Commending and

congratulating those persons who have established the Ed Felder Memorial Fund at Texas A. & M. College.

Whereas, The Ed Felder Memorial Fund has been established at Texas A. & M. College in honor of the late Edward Lawrence Felder, who served on the staff of former Governor Allan Shivers and for four years as Executive Secretary of the Texas Water Resources Committee; and

Whereas, Earnings from the fund will be awarded annually to a deserving student of meteorology as a means of promoting a better understanding of the atmosphere and the possibilities of weather modification; and

Whereas, The memorial fund was established partially with contributions which had been made for the purpose of setting up a Weather Modification Research and Information Center at Texas A. & M. College, a project in which Mr. Felder was greatly interested and which he helped to plan and initiate, but which failed to come to fruition after his untimely death; and

Whereas, a practical, long-range solution of Texas' water problems was Ed Felder's goal, and he worked toward it with zeal and dedication, among other things spearheading the organization of the Weather and Water Research League, of which he was vice-president; and

Whereas, Edward Lawrence Felder was born on June 1, 1915, in Fort Worth and at the age of 11 moved with his family to San Antonio, where he was graduated from Brackenridge High School; and

Whereas, During World War II he served in the Army Air Corps, European Theater, as an aerial photographic reconnaissance specialist; and

Whereas, Like his father, he was an engraver by profession and also became an excellent photographer; while serving on the staff of Governor Shivers and while assigned to work with the Water Resources Committee from 1953 to 1957, he developed his keen interest in water and weather problems and research which would contribute to their solution; and

Whereas, He also worked for a time in the Texas State Library before his death on January 16, 1958; and

Whereas, His widow, Mrs. Joye Felder, and his daughters, Patricia, born January 1, 1947, and Linda, born

December 5, 1949, are residents of Austin; and

Whereas, The establishment of the Ed Felder Memorial Fund is a fitting tribute to the life and work of this forthright and effective man, and the purpose for which it is to be used furthers knowledge in a field in which he was vitally interested; and

Whereas, Mr. O. G. McClain of Corpus Christi, a member of the Texas Water Resources Committee under both Governor Shivers and Governor Price Daniel and president of the Weather and Water Research League at the time of its incorporation, has provided leadership in the establishment of the fund, with major contributions from Mr. Lon C. Hill, president of the Central Power and Light Company, Corpus Christi, and other friends; and

Whereas, Dr. Archie Kahan, Executive Director of the Texas A. & M. Research Foundation at College Station, has been instrumental in setting up the fund and developing plans for its use and administration; therefore, be it

Resolved by the Senate of the 57th Legislature of Texas and the House of Representatives, That we heartily concur, commend, and congratulate all those who have had a part in the establishment of the Ed Felder Memorial Fund and recognize it as worthy tribute to the life and work of a dedicated public servant of the State of Texas; and be it further

Resolved, That enrolled copies of this resolution be prepared and sent to Mrs. Felder, Mr. McClain, Mr. Hill, and Dr. Kahan.

PARKHOUSE  
HARDEMAN  
HERRING  
OWEN  
ROBERTS

The resolution was read.

On motion of Senator Parkhouse and by unanimous consent the resolution was considered immediately and was adopted.

Conference Committee on  
House Bill 24

Senator Baker called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses

on H. B. No. 24 and moved that the request be granted.

The motion to grant the request prevailed.

Accordingly, the President announced the appointment of the following Conferees on the bill on the part of the Senate: Senators Baker, Patman, Dies, Kazen and Colson.

#### Message from the House

Hall of the House of Representatives  
Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 67, A bill to be entitled "An Act authorizing certain cities to issue refunding bonds due serially and bearing interest as provided in this Act for the purpose of refunding outstanding tax supported bonds adjudicated to be valid by a decree of the Federal Court, where the ordinance authorizing the issuance of such refunding bonds provides that not less than a rate of tax therein specified shall be levied, assessed and collected each year as long as any of such bonds or interest thereon are outstanding; providing that, in lieu of exchanging such new refunding bonds, they may be sold and the proceeds deposited in the bank where the outstanding bonds are payable; providing that when such new refunding bonds are approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts they shall be incontestable and shall constitute valid and binding obligations of such city; providing that no city charter provision relating to the terms, issuance, sale and delivery of bonds shall be applicable to bonds issued under this law; enacting other provisions related to the subject; and declaring an emergency."

H. B. No. 54, A bill to be entitled "An Act to amend Section 1 of Chapter 374, Acts, 57th Legislature, Regular Session, Senate Bill No. 51, by changing the effective date of said Act to September 1, 1961, providing for the allocation of professional units to districts reporting increases on the basis of current average daily attendance; and declaring an emergency."

H. B. No. 74, A bill to be entitled "An Act relating to the Official Shorthand Reporters of the Tenth, Fifty-sixth, and One Hundred Twenty-second Judicial Districts of Texas; re-enacting and amending Acts of the 55th Legislature, 2nd Called Session, 1957, Chapter 12, by fixing the maximum and minimum salary and method of determining same, and by fixing the fee for transcript; and declaring an emergency."

H. B. No. 34, A bill to be entitled "An Act relating to miscellaneous excise taxes, amending Article 20.09, Article 20.11 and Article 20.14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, to provide for the filing of quarterly reports; to provide for the retailer to remit one hundred per cent (100%) of the tax or taxes collected; to provide for permits to expire on September 30th of each year; to dispense with the requirement including specific inventory information in reports; to dispense with the requirement of keeping certain records; and declaring an emergency."

H. B. No. 68, A bill to be entitled "An Act amending Chapter 4, Title 75, of the Revised Civil Statutes of Texas, 1925, as amended, by adding a new Article after Article 4639a, to be known as Article 4639b, Vernon's Texas Civil Statutes, pertaining to the support of children who require custodial care; providing a severance clause; repealing all laws in conflict; and declaring an emergency."

H. B. No. 149, A bill to be entitled "An Act to establish and maintain a residential school for the confinement, care and treatment of emotionally disturbed children; regulating and providing for its operation; and declaring an emergency."

H. B. No. 72, A bill to be entitled "An Act amending Section A of Article 2.17 of the Texas Non-Profit Corporation Act, Chapter 162, Acts of the 56th Legislature, Regular Session, 1959, relating to the quorum of directors; and declaring an emergency."

The House has adopted the Conference Committee Report on Senate Bill No. 18 by a non-record vote.

H. B. No. 164, To amend Section 2 of House Bill No. 120, Chapter 266,

Acts of the Fifty-seventh Legislature, Regular Session, 1961, to prohibit any college invoking the authority of this Act from receiving State aid for junior and senior years' work for twenty (20) years from the date of the passage of this Act; and declaring an emergency.

H. B. No. 165, Amending Title 82 of the Revised Civil Statutes of Texas, 1925, as amended, by adding a new Article thereto to be known as Article 5139E-1, establishing and constituting a Juvenile Board in certain counties to be composed of the County Judge and District Judges; designating a chairman and administrative officer therefor and providing an official name therefor; etc.; and declaring an emergency.

The House has concurred in Senate amendments to House Bill No. 145 by non-record vote.

S. B. No. 69, Validating all school districts, including all types of junior and regional college districts, together with the boundaries and names thereof; validating the creation, abolition, and conversion of all such school districts, and all changes in boundaries in all such school districts; validating the annexation of territory and the divorcement or separation from municipal control in all municipally controlled school districts; validating all bonds, bond taxes, maintenance taxes and bond assumptions and the elections authorizing same, of and in all school districts, including all types of junior and regional college districts; etc.; and declaring an emergency.

H. B. No. 52, Amending Subsection (a) of Section 15 of Chapter 179, Acts of the Fifty-sixth Legislature, Regular Session, 1959, to provide for enforcement of the Water Safety Act by game wardens on Lake Texoma, Lake Texarkana, and Garza-Little Elm Lake, in addition to the enforcement by peace officers of this State and its political subdivisions; and declaring an emergency.

Respectfully submitted,  
DOROTHY HALLMAN,  
Chief Clerk, House of Representatives

#### Senate Concurrent Resolution 27

Senator Herring offered the following resolution:

S. C. R. No. 27, Granting National

Lloyds permission to sue the State of Texas.

Whereas, National Lloyds, an insurance company holding a valid and subsisting Certificate of Authority to do an insurance business in Texas, for the year 1959, had gross receipts of \$742,579.28, after allowance for return premiums and dividends to policyholders, and, under the provisions of Article 7064, Vernon's Revised Civil Statutes of Texas, became liable for taxes at the rate of 1.1% of such receipts which amounted to \$8,168.37, to which a credit was properly allowed of \$274.84 for examination fees incurred by the State Board of Insurance, leaving a net amount of \$7,893.53, which was paid by National Lloyds; and

Whereas, For the same year of 1959, under the provisions Art. 5.12, Insurance Code, National Lloyds paid the motor vehicle maintenance tax of .06 of 1% on gross receipts of \$742,007.07, said tax amounting to \$445.20; and

Whereas, During the year of 1960, National Lloyds cancelled policies of insurance and made refunds of premiums to its policyholders on policies written during 1959 in an amount which exceeded its gross receipts by \$595,863.93, and on which refunded premiums National Lloyds had paid the gross receipts tax for the year 1959; that because of such refunds National Lloyds contends that, under Article 7064, V. A. C. S., it is entitled to a refund of 1.1% of \$595,863.93, which amounts to \$6,554.50, together with a refund of .06 of 1% of \$596,423.49, paid as a maintenance tax for the year 1959, under Art. 5.12, Insurance Code, which amount would be \$357.85, making a total refund claimed of \$6,912.35; and

Whereas, It is the policy of the Legislature of the State of Texas to give and grant to persons and corporations the right to litigate the validity of any claim being asserted against the State of Texas in a court of competent jurisdiction: now, therefore, be it

Resolved by the Senate of the State of Texas, with the House of Representatives concurring, That National Lloyds, its successors or assigns, be and it is hereby granted permission to bring suit against the State of Texas in any court of competent jurisdiction in Travis County, Texas, for the purpose of determining the

validity of the claim being asserted by National Lloyds, arising out of the payment of the gross receipts and maintenance taxes above set out, and service of citation for the purposes herein granted may be served upon the State of Texas by serving the Attorney General, the State Treasurer and the State Comptroller of Public Accounts of Texas; and be it further

Resolved, That such suit may be filed at any time within two (2) years from the effective date of this resolution; and, be it further

Resolved, That the granting of the right to bring this suit against the State of Texas shall not be considered or understood as an admission of liability on the part of the State of Texas, and shall not be considered as a waiver of any rights or defense that might be interposed for and on behalf of the State of Texas.

The resolution was read and was referred to the Committee on Jurisprudence.

**House Concurrent Resolution 18  
On Second Reading**

On motion of Senator Krueger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its Second Reading the following resolution:

H. C. R. No. 18, Authorizing the State Building Commission to make a study concerning the feasibility of constructing a State Emergency Operating Center.

The resolution was read and was adopted.

**Record of Votes**

Senators Hardeman and Crump asked to be recorded as voting "Nay" on the adoption of the above resolution.

**Reports of Standing Committees**

Senator Ratliff submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir, We your committee on Labor and Management Relations, to whom

was referred H. B. 143, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

RATLIFF, Chairman.

Senator Hardeman submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. C. R. No. 27, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

**House Bill 143 Ordered not Printed**

On motion of Senator Parkhouse and by unanimous consent H. B. No. 143 was ordered not printed.

**Senate Concurrent  
Resolution 27 Ordered not Printed**

On motion of Senator Herring and by unanimous consent, S. C. R. No. 27 was ordered not printed.

**Senate Concurrent Resolution 27  
On Second Reading**

On motion of Senator Herring and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its Second Reading the following resolution:

S. C. R. No. 27, Granting National Lloyds permission to sue the State of Texas.

The resolution was read and was adopted.

**Senate Bill 64 on Third Reading**

The President laid before the Senate on its third reading and final passage:

S. B. No. 64, A bill to be entitled "An Act to amend Senate Bill No. 80, Chapter 260, Acts of Fifty-seventh Legislature, Regular Session, 1961 (codified as Article 2815-3 in Vernon's Annotated Civil Statutes) by the addition thereto of a new section to be designated Section 1a defining

'consolidation' for the purposes of Senate Bill 80, supra, and its application therein; and declaring an emergency."

The bill was read the third time and was passed.

#### Record of Votes

Senators Roberts, Patman and Ratliff asked to be recorded as voting "Nay" on the final passage of S. B. No. 64.

#### Senate Bill 23 on Third Reading

The President laid before the Senate on its third reading and final passage:

S. B. No. 23, A bill to be entitled "An Act amending Paragraph (1) of Section 1 of Chapter 314, Acts of the 41st Legislature, Regular Session, 1929, as amended, relating to the definition of 'specialized Motor carrier'; and declaring an emergency."

The bill was read the third time and was passed.

#### Record of Votes

Senators Patman and Ratliff asked to be recorded as voting "Nay" on the final passage of S. B. No. 23.

#### House Bill 143 on Second Reading

On motion of Senator Parkhouse and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage on third reading:

H. B. No. 143, A bill to be entitled "An Act amending Penal Code Article 1690 by inserting a new Section 1690e making unlawful and void any part of an agreement, arrangement or other device which requires or permits a carrier to pay a levied charge, allowance, assessment or compensation to any person or organization if such charge, allowance, assessment or compensation is dependent or contingent upon the use of another mode of transportation; prescribing penalty thereafter and declaring an emergency."

The bill was read second time and passed to third reading.

#### House Bill 143 on Third Reading

Senator Parkhouse moved that the

Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 143 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—29

Aikin	Martin
Baker	Moffett
Calhoun	Owen
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Fuller	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	

#### Absent

Gonzalez Moore

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—29

Aikin	Martin
Baker	Moffett
Calhoun	Owen
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Fuller	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	

#### Nays—1

Gonzalez

#### Absent

Moore

#### House Bills and Resolution on First Reading

The following bills and resolution received from the House, were read

the first time and referred to the Committees indicated:

H. C. R. No. 23, To the Committee on Jurisprudence.

H. B. No. 165, To the Committee on Counties, Cities and Towns.

H. B. No. 149, To the Committee on Public Health.

H. B. No. 164, To the Committee on Education.

H. B. No. 74, To the Committee on Counties, Cities and Towns.

H. B. No. 68, To the Committee on Counties, Cities and Towns.

H. B. No. 54, To the Committee on Education.

#### Senate Bill 10 with House Amendments

Senator Owen called S. B. No. 10 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Owen moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Owen, Hardeman, Dies, Parkhouse and Roberts.

#### Report of Standing Committee

Senator Hardeman by unanimous consent submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred H. C. R. No. 23, have had the same under consideration, and we are instructed to report it back to the Senate with

the recommendation that it do pass, and be printed.

HARDEMAN, Chairman.

#### House Concurrent Resolution 23 Ordered Not Printed

On motion of Senator Willis and by unanimous consent H. C. R. No. 23 was ordered not printed.

#### Message from the Governor

The following message received from the Governor today was read and was filed with the Committee on Nominations:

Austin, Texas,  
August 7, 1961.

To the Senate of the Fifty-seventh Legislature, First Called Session:

I ask the advice, consent, and confirmation of the Senate with respect to the following appointment:

To be a member of the State Board of Control, for a term to expire August 31, 1965: Carl L. Phinney of Dallas, Dallas County.

Respectfully submitted,

PRICE DANIEL,  
Governor of Texas.

#### Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 165, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

#### House Bill 165 Ordered Not Printed

On motion of Senator Calhoun and by unanimous consent H. B. No. 165 was ordered not printed.

#### Notice of Executive Session

Senator Dies gave notice that he would on tomorrow make a motion for an Executive Session following The Morning Call.

**Report of Standing Committee**

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 68, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

**House Bills and Resolutions Signed**

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H. C. R. No. 14, Granting permission to Charles C. Calhoun to sue the State of Texas and the University of Texas.

H. C. R. No. 21, Granting permission to Carmen G. Abatie to sue the State of Texas and the Board of Control of the State of Texas.

H. C. R. No. 22, Granting permission to Lavon Lakey to sue the State of Texas and the Texas Department of Public Safety.

H. B. No. 62, A bill to be entitled "An Act to amend Chapter 125, Acts of the Forty-fifth Legislature, 1937, as amended (codified as Article 6243e, Vernon's Annotated Civil Statutes), by adding thereto a new Section to be numbered Section 25A, prohibiting any increase or decrease in a retirement or survivor's allowance except as expressly provided; and declaring an emergency."

H. B. No. 42, A bill to be entitled "An Act relating to the taking of bait shrimp in Jefferson County; etc.; and declaring an emergency."

H. B. No. 58, A bill to be entitled "An Act relating to Game and Fish laws in San Augustine County; etc.; and declaring an emergency."

H. B. No. 128, A bill to be entitled "An Act relative using of pound nets in Gulf waters; etc.; and declaring an emergency."

H. B. No. 106, A bill to be entitled "An Act creating the Kimble County River Authority; etc.; and declaring an emergency."

H. B. No. 127, A bill to be entitled "An Act relating to regulatory authority of the Game and Fish Commission in Blanco and Hays Counties; etc.; and declaring an emergency."

**House Bill 5 on Second Reading**

On motion of Senator Martin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 5, A bill to be entitled "An Act to amend Title 53, Revised Civil Statutes of Texas, 1925, relating to escheat, by adding Article 3272a providing for the making of reports by persons holding personal property subject to escheat, defining terms, providing for notices and determination of escheat, administrative and court procedure, sales, determination and payment of subsequent claims, examination of records, reciprocity, penalties, and Expense and Reimbursement Fund, and other related rules and procedures for enforcement of the escheat laws of the State; etc.; and declaring an emergency."

The bill was read the second time.

Senator Baker offered the following amendment to the bill:

Amend H. B. 5 by striking out all below the enacting clause and substituting in lieu thereof the following:

Section 1. Title 53, Revised Civil Statutes of Texas, 1925, is hereby amended by adding a new article to be designated Article 3272a, to read as follows:

"Art. 3272a. Report by holder of personal property.

Section 1. Every person holding personal property subject to escheat under Article 3272 of Title 53, Revised Civil Statutes of Texas, 1925, at the time of the effective date of this Act, shall, within sixty (60) days thereafter, file a report thereof with the State Treasurer, as specified in Section 2 of this Article. Every person who holds personal property which becomes subject to escheat un-



der Article 3272 after the effective date of this Act shall, within sixty (60) days thereafter, file a report thereof with the State Treasurer as specified in Section 2 of this Article; provided that after one report has been made under this Article by any person, subsequent reports by such person may be made on an annual basis on or before May 1 of each year.

(a) The term "Person" as used in this Article means any individual, corporation, business association, partnership, governmental or political subdivision or officer, public authority, estate, trust, trustee, officer of a court, liquidator, two or more persons having a joint or common interest, or any other legal, commercial, governmental or political entity, except banks, Savings and Loan Associations, banking organizations or institutions, which shall be subject only to the procedure provided in Article 3273.

(b) The term "personal property" includes, but is not limited to, money, stocks, bonds and other securities, bills of exchange, claims for money or indebtedness and other written evidences of indebtedness, dividends, deposits, accrued interest, purchase payments, sums payable on certified checks, certificates of membership in a corporation or association, amounts due and payable under the terms of any insurance policy, security deposits, unclaimed refunds and deposits for utility or other services, funds to redeem stocks and bonds, undistributed profits, dividends, or other interests, production and proceeds from oil, gas and other mineral estates, and all other personal property and increments thereto, whether tangible or intangible, and whether held within this State, or without the State for a person or beneficiary whose last known residence was in this State.

The term "personal property" shall not include claims or debts the collection of which is barred by the statutes of limitations.

(c) The term "subject to escheat" shall include personal property presumed to be subject to escheat by the prima facie conclusions contained in Article 3272, including all personal property (1) of which the existence and whereabouts of the owner are unknown and have been unknown to the holder for more than seven years and (2) on which, from the knowl-

edge and records of the holder it appears that no claim or act of ownership has been asserted or exercised during the past seven years and (3) on which no will of the last known owner has been recorded or probated in the county where the property is situated within the past seven years.

Sec. 2. Form of Report. The report shall be prepared and returned in triplicate, verified under oath, and shall include the following:

(a) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of the property reported; or the name and address, if known, of any person who may be entitled to such property; together with a brief description of the property, which in the case of deposits, shall disclose the total balance. If any deductions have been made therefrom by the holder for service, maintenance, or other charges, they shall be disclosed unless such deductions have been fully restored in the total amount reported as provided in subsection (d) below.

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured beneficiary or annuitant and his last known address according to the life insurance corporation's records.

(c) In the case of mineral proceeds, a list of all credits grouped as to the counties from which the credited proceeds were derived, including credits which have theretofore been charged off or disposed of in any manner except by payment to the owner thereof; giving the name and last known address of the owner; the fractional mineral interest of the owner; description and location of the land or lease from which the oil, gas, or mineral was produced; the name of the person, firm or corporation who operated the oil, or gas well or mine; the period of time during which such proceeds accumulated and the price for which such oil, gas, or other mineral was sold, each such several ownerships to be given an identifying number. The nature and identifying number, if any, or description of the property, and the amount appearing from the records to be due, except that items of value under \$10.00 each may be reported in aggregate;

(d) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with re-

spect to the property. Since the State upon escheat is entitled to all rights of the former owner, in the case of dormant deposits or accounts on which deductions for service, maintenance, or other charges would be restored under the policy or procedures of the holder upon request by the owner, such deposits or accounts shall be reported and shall be subject to escheat hereunder in the same amount to which the former owner would be entitled upon such request; and

(e) Other information which may be prescribed by rule of the State Treasurer as necessary for the administration of this Article.

(f) The verification under oath at the conclusion of the report shall include the following language.

"The foregoing report contains a full and complete list of all personal property held by the undersigned for which, from the knowledge and records of the undersigned, it appears that the existence and whereabouts of the owner are unknown and have been unknown for more than seven years and on which no claim or act of ownership has been asserted or exercised during the past seven years and on which no will of the last known owner has been recorded or probated in the county where the property is situated within the past seven years."

(g) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

### Sec. 3. Notice and Publication of Lists of Abandoned Property.

(a) Within 60 days after the date in which the reports specified in Sec. 2 are received, the State Treasurer shall mail a notice thereof, as hereinafter described, to the Sheriff of the county of the domicile or principal place of business of the holder so reporting, and in cases involving more than \$50.00, to the Sheriff of the county of the last known residence of the owner if it is different from the county of the holder. The notice to the Sheriff shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

(1) The names in alphabetical order and the last known addresses, if any, of persons listed in the report and entitled to notice as hereinbefore specified; and

(2) A statement that information concerning the amount and description of the property and the name and address of the holder may be obtained by any persons possessing or claiming an interest in the property by addressing an inquiry to the holder so reporting. Within 10 days after receipt of said notice, it shall be the duty of the Sheriff to post it on the courthouse door or the courthouse bulletin board, where it shall remain posted for a period of not less than 30 days. Thereafter the Sheriff shall return the notice to the State Treasurer with his certificate showing the date and time of posting required by this Section.

### Sec. 4. Determination of Escheat.

(a) All personal property reported under the provisions of this Article remaining unclaimed at the expiration of 120 days from the date upon which the report by the holder of such property was received by the State Treasurer, shall be deemed to be abandoned, and shall escheat to, and the title thereto vest in, the State of Texas, and the State Treasurer shall so certify to the Attorney General.

(b) The Attorney General shall immediately institute an action in a District Court of the County in which the holder resides or is domiciled to judicially determine that such property has escheated to the State. The suit shall be brought as a class action, and may include the property reported by more than one holder from the same or other counties, and the sworn petition shall state that the action is brought by the State of Texas upon the relation of the State Treasurer by the Attorney General for the purpose of escheating and vesting the title in the State of Texas of the property therein described, stating the description of the property which has escheated to the State, the name of the person or holder possessed thereof and the names of the person or persons claiming or last known to have claimed, such property, if any such names are known, all of which information shall be separately listed in parallel columns, and the facts and circumstances in consequence of which such property is claimed to have escheated, praying that such property be escheated, and the title thereto vested in the State of Texas. The petition shall not be subject to objections as to the misjoinder of parties or misjoinder of causes of action.

(c) The Clerk of the Court in which such suit is filed shall issue citation as in other civil cases, which shall be styled, "The State of Texas," and shall be directed to the person or holder named in the petition as being possessed of the property described in said petition, which citation need not be accompanied by a copy of the original petition filed in the suit, but which shall state concisely the nature of the suit, a description of the property possessed by the person or holder to whom the citation is directed, and the name of the person or persons claiming, or last known to have claimed, such property as set forth in the petition, together with the facts and circumstances in consequence of which such property is claimed to have been escheated, and the prayer contained in the petition.

(d) The Clerk of the Court in which such suit is filed shall also issue citation which shall be styled, "The State of Texas," and shall be directed to all persons interested in, claiming, or asserting an interest in the abandoned property, which description of such property, together with the name of the last holder thereof and the names of the person or persons claiming, or last known to have claimed, such property, shall be listed as described in the petition, to appear and answer as provided in the Texas Rules of Civil Procedure, which citation shall be published in accordance with Rules 114, 116, 117, and 118, Texas Rules of Civil Procedure, except that such citation shall be published only once at least twenty-eight (28) days before the return day of the citation, and except as such rules are further herein modified. The costs of publication shall be paid by the State Treasurer at the rate set out in Article 29, Revised Civil Statutes. Any person claiming an interest in such abandoned property, whether such person is or is not specifically named in the petition, may appear and answer in such proceedings as in other civil suits.

(e) All actions brought under this section shall be governed by the procedure provided in the Texas Rules of Civil Procedure relating to class actions, unless otherwise provided in this Article.

(f) The sworn reports filed with the State Treasurer in accordance with Section 2 of this Article shall, when offered in evidence, constitute prima facie evidence that the property set

forth therein has no owner and has escheated to the State, both under the provisions of this Article and Article 3272 of this Title, unless the person or claimant to the property set forth and described in such report shall file a written denial, under oath, denying that such property has no owner and has escheated to the State, and asserting a claim and proof of ownership thereto. In the absence of such a sworn plea, the sworn report shall be received in evidence as conclusive proof that the property set forth and described in such report has no owner and has escheated to the State, both under the provisions of this Article and Article 3272 of this Title.

(g) If it appears to the Court that the property described in the petition has been actually abandoned, and that there is no person entitled to it, judgment shall be rendered declaring such property escheated and vesting the title thereto in the State of Texas. The judgment shall also direct the holder of the property so described, which has been actually abandoned and escheated and the title thereto vested in the State, to deliver such property immediately to the State Treasurer. If no person or claimant to any property described in the petition shall appear and answer within the time provided for entering such appearance and answer by the Texas Rules of Civil Procedure, the Court shall render judgment by default as to such property in favor of the State of Texas. If the Court should find that such property has not been actually abandoned and therefore should not be escheated and the title thereto vested in the State of Texas, and that the title to such property should vest in the person or persons claiming the title to or an interest in such property, the Court shall direct such property to be delivered to the person or persons lawfully entitled to possession thereof. Any person who has entered an appearance in the trial of such cause, and the Attorney General on behalf of the State, shall have the right to prosecute an appeal from the judgment of the trial court as provided by the Texas Rules of Civil Procedure. No appeal bond shall be required on an appeal by the State of Texas.

(h) After the judgment of the Court vesting the title to such property in the State of Texas has become final, the Attorney General shall so

certify to the State Treasurer. When such certification has been received by the State Treasurer and the property which has been escheated and the title thereto vested in the State of Texas under such judgment has been delivered to the State Treasurer in accordance with the mandate contained in such judgment, the State Treasurer shall immediately place the sums of money so escheated to the State of Texas in the State Treasury to the credit of the General Fund, subject to the provisions of Section 15 of this Article. Where the title to intangible personal property other than money has been adjudged to be vested in the State of Texas, and such property has been sold as provided in Sec. 5 hereof, the State Treasurer shall deposit the proceeds received from the sale of such intangible personal property in the State Treasury to the credit of the General Fund. After delivery of the property to the State Treasurer, the holder thereof shall be relieved of all liability therefor to any person who may later assert a claim thereto.

**Sec. 5. Sale of Abandoned Property.**

(a) All abandoned property other than money delivered to the State Treasurer under this Article which has been escheated and the title thereto vested in the State of Texas shall be sold by the State Treasurer to the highest bidder at public sale in whatever city in the State in his judgment affords the most favorable market for the property involved. The State Treasurer may decline the highest bid and re-offer such property for sale if he considers such bid insufficient. He need not offer any property for sale, if, in his opinion, the probable cost of sale is in excess of the value of the property.

(b) Any sale held under this section shall be preceded by a single publication of notice thereof at least three (3) weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold, which shall be paid for at the rate provided in Article 29, Vernon's Civil Statutes.

(c) The purchaser at any sale conducted by the State Treasurer pursuant to this section, shall receive title to the property purchased, free from all claims of the owner or prior holder thereof, and of all persons claiming through or under them. The

State Treasurer shall execute all documents necessary to complete the transfer of title.

**"Sec. 6. Claim of Interest in Abandoned Money and Intangible Personal Property Escheated to the State.**

(a) Any person claiming an interest in any property paid or surrendered to the State Treasurer which has been adjudged to be actually abandoned, escheated, and the title thereto vested in the State of Texas under the provisions of this Article who was not actually served with notice, and who did not appear, and whose claim was not specifically presented and considered during the action or at the proceedings resulting in its escheat and the title thereto vested in the State of Texas, may file his claim to such property with the State Treasurer, which claims shall be filed on forms and through procedures prescribed with the State Treasurer.

(b) No person holding a power of attorney from a claimant who files a claim to such property as hereinabove provided on behalf of any claimant shall contract for or receive from the claimant for his services an amount in excess of ten percent (10%) of the value of the property recovered, except that where suit has been instituted as provided in Section 9 hereof, such person may contract for and receive a fee to be fixed by the Court, not to exceed twenty-five percent (25%) of the value of the property recovered.

**"Sec. 7. Determination of Claims.**

(a) It shall be the joint duty and responsibility of the State Treasurer and the Attorney General or their duly authorized assistants, to consider the validity of any claim filed under this Article.

(b) The State Treasurer and the Attorney General may hold a hearing and receive evidence concerning any claim filed under the provisions of Section 6 of this Article. If a hearing is deemed necessary in order to determine a claimant's right to receive funds which have escheated to the State, a finding and a decision in writing on each claim filed, stating the substance of the evidence heard and the reasons for such decision, shall be signed by both the State Treasurer and the Attorney General, and shall be a public record. If the claim is allowed as a valid, just and equitable one in the discretion of the

above mentioned officers, it shall be approved and signed by both officers.

(c) If the claim is for money which has been declared to be abandoned, escheated, and the title thereto vested in the State of Texas under the provisions of Section 4 of this Article, and the claim has been allowed, approved, and signed as provided herein, the claim shall be paid by the State Treasurer from the Escheat Expense and Reimbursement Fund. If the claim is for intangible personal property which has been declared to be abandoned, escheated, and the title thereto vested in the State of Texas under the provisions of Section 4 of this Article, and the property has not been sold by the State Treasurer as provided in Section 5 of this Article, the State Treasurer shall promptly deliver such property to the claimant. If such property has been sold, as provided in Section 5 of this Article, the full amount of the claim shall be paid to the claimant without deduction for costs of administration, service charges, or notices of any kind whatsoever.

**Sec. 8. Judicial Action Upon Determination of Claims.**

(a) Any person aggrieved by a decision of a claim under the provisions set forth in Sec. 6 or Sec. 7 or as to whose claim a final decision has been rendered within 90 days after filing same, may appeal within 60 days from the date of the decision rendered or the lapse of 90 days as the case may be.

(b) The appeal proceeding shall be commenced in any District Court in Travis County, Texas, or in any District Court of Texas in the County wherein the funds claimed were on deposit. The action shall be tried de novo and in all other respects be governed by the rules of practice in such court. Permission is hereby expressly granted to any and all such claimants to sue the State of Texas, as herein provided.

**Sec. 9. Examination of Records.** At the request of the State Treasurer or the Attorney General, or either of them, the State Auditor, State Comptroller or Public Accounts, State Banking Commissioner, Commissioner of Insurance, Securities Commissioner, the Department of Public Safety, and any District or County Attorney shall assist the State Treasurer and the Attorney General in the enforcement of this Article. The State Treasurer

or the Attorney General, or the duly authorized assistants, agents, or representatives of either of them, may, at all reasonable times, examine the books and records of any person to enforce this Article and to determine if the reports (required in this Article) have been made as provided herein. The State Treasurer and the Attorney General, and their authorized assistants, agents or representatives, shall not make public or use any information derived in the course of said examination of said books and records except in the course of any judicial proceeding authorized under the provisions of this Article in an action in which the State of Texas is a party.

**Sec. 10. Reciprocity for Property Presumed Abandoned or Escheated Under the Laws of Another State.** If specific property which is subject to the provisions of this Article and is held for or owed or distributable to an owner whose last known address is in another State by a holder who is subject to the jurisdiction of that State, the specific property is not presumed abandoned in this State and subject to this Article if:

(a) It has been claimed as abandoned or escheated under the laws of such other State; and

(b) The laws of such other State make reciprocal provisions that similar specific property is not presumed abandoned or escheatable by such other State when held for or owed or distributable to an owner whose last known address is within this State by a holder who is subject to the jurisdiction of this State.

**Sec. 11. Unclaimed Property Held by the Federal Government.** In the event of the enactment by the Federal Government of laws providing for the discovery of unclaimed property held by the Federal Government, and for the furnishing or availability of such information to the States, the State Treasurer is hereby authorized to compensate the Federal Government for the proportionate share of the actual and necessary cost of examining records, and the State of Texas shall hold the Federal Government harmless from later claims of owners of unclaimed property delivered to the State Treasurer by the Federal Government. Such compensation shall be paid from the Escheat Expense and Reimbursement Fund.

**Sec. 12. Rules and Regulations.** The State Treasurer is hereby author-

ized to make necessary rules and regulations to carry out the provisions of this Article.

Sec. 13. Penalties. Any person who wilfully fails to file a report required by this Article, or who refuses to permit examinations of records as provided in this Article, or who deducts from or makes a service charge against an inactive or dormant account or other deposit of funds, shall be punished by a fine of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000), or by confinement for not more than six (6) months in the county jail, or both, and in addition, shall be subject to civil penalties of not exceeding One Hundred Dollars (\$100) for each day of such failure or refusal, said civil penalties to be collected by suit in a district court of Travis County, Texas, by the Attorney General in the name of the State of Texas.

Sec. 14. The provisions of this Article 3272a are in addition and supplementary to and shall not be construed to repeal, alter, change, or amend any of the provisions of Articles 3273 to 3289, inclusive, Title 53, Revised Civil Statutes of Texas, 1925, which provide for the escheat of estates of decedents.

Sec. 15. Escheat Expense and Reimbursement Fund.

(a) There is hereby created a revolving fund to be known as the "Escheat Expense and Reimbursement Fund" in the amount of One Hundred Thousand Dollars (\$100,000) to be held by the State Treasurer, one-half ( $\frac{1}{2}$ ) of which shall be maintained for reimbursement of persons who obtain decisions or judgments in accordance with Sections 6 and 7 of this Article that they are entitled to escheated funds, and one-half ( $\frac{1}{2}$ ) of which shall be used by the Treasurer and the Attorney General, with expenditures and vouchers approved by both of such officers, for the purpose of enforcement of the provisions of this Title, including the expense of publishing of notices, examinations, travel, court costs, witness fees, employment of such additional assistants and other personnel as may be necessary for such purposes in either of their offices at salaries not to exceed the rate paid other employees for similar services, and all other expenses necessary for enforcement of this Title. The Governor is authorized to transfer to the Escheat Ex-

pense and Reimbursement Fund sums not to exceed \$20,000.00 from any appropriations made to the Executive Department to be used and expended for the purposes above set out. Thereafter, such sums of money as may be necessary to maintain the Escheat Expense and Reimbursement Fund in the sum of \$100,000 shall be deposited to such funds from funds escheated to the State pursuant to the provisions of this Act, prior to any deposit to the General Revenue Fund for such escheated funds. The Escheat Expense and Reimbursement Fund shall be subject to audit by the State Auditor and to appropriation by the Legislature for the purpose of enforcing this Title."

Section II. Article 3273, Revised Civil Statutes of Texas, 1925, is hereby amended so as to hereafter read as follows:

"Art. 3273. Petition for Escheat and Bill of Discovery.

The Attorney General of the State or the district or criminal district or county attorney shall institute a suit in the nature of a bill of discovery against any person whom he has reason to believe is in possession or control of real or personal property subject to the escheat provisions of Article 3272. In any such bill the interrogatories or depositions shall include only questions concerning the defendant's knowledge of facts relevant to escheat of such property to the State and no such bills, interrogatories or depositions shall relate to property which has remained unclaimed for less than seven years. When not inconsistent with the provisions of this Article, the general law of the State with regard to bills of discovery shall control proceedings under this Act.

When the Attorney General or the district or criminal district or county attorney shall discover, or have reason to believe, that any property, real or personal, is in the condition specified in Article 3272, he shall file a sworn petition in the name of the State of Texas which shall set forth a description of the property, the name of the person last lawfully seized or possessed of same, the name of the person in actual possession, if any, the name of any persons claiming the property, if any such are known to claim or whose claim may be discovered by the exercise of reasonable diligence, the facts or circumstances in consequence of which

such estate is claimed to have escheated, and the diligence exercised to discover the claimants of same, praying that such property be escheated and for a writ of possession therefor in behalf of the State. If filed by an officer other than the Attorney General, he shall notify the Attorney General in writing and forward a copy of the petition in order that the Attorney General may participate in behalf of the State if he so elects.

Venue for any bill of discovery or action for escheat under this Article shall lie in the county where the property or any part thereof is located.

When the Attorney General, district, criminal district or county attorney, has reason to believe that one person has possession or control of various properties subject to escheat from more than one source, one bill of discovery or action for escheat may be instituted to discover or escheat all of such property subject to the venue and citation provisions of this Title, and the bill or petition shall not be subject to objections as to misjoinder of parties or causes of action.

When used in this Article the word "person" shall include individuals, corporations, associations and all legal entities which may sue or be sued."

Any expenses incurred by the Attorney General in the enforcement of this Article shall be paid from the Escheat Expense and Reimbursement Fund in the State Treasury.

Section III. Article 3284, Revised Civil Statutes of Texas, 1925, is hereby amended so as to hereafter read as follows:

"Art. 3284. Appeal or writ of error.

Any party who has appeared in such proceedings, and also the Attorney General or the Criminal District or District or County Attorney on behalf of the State, shall have the right to prosecute an appeal or writ of error upon such judgment."

Section IV. Severability. If any word, sentence, or provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end of the provisions of this Act are severable.

Section V. Emergency Clause.

The fact that the present laws pro-

viding for the protection of abandoned property, the location of unknown owners and missing heirs and the escheat of money and personal property belonging to the State are inadequate, and that there are large amounts of money and personal property to which the State is entitled, and which property is subject to loss and dissipation, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and this rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Baker and by unanimous consent the reading of the amendment was dispensed with and he explained the amendment.

Question—Shall the amendment by Senator Baker to H. B. No. 5 be adopted.

Senator Kazen offered the following amendment to the pending amendment:

Amend the Pending amendment to H. B. 5 by adding the following Section to be numbered 10a.

Section 10a: This Act shall not apply to any bank account or savings and loan account held within this State where the last known owner was a citizen and resident of another country.

KAZEN  
OWEN  
HUDSON  
HARDEMAN

The amendment was adopted.

#### Record of Vote

Senator Fuller asked to be recorded as voting "Nay" on the adoption of the above amendment.

Senator Owen offered the following amendment to the pending amendment:

Amend the pending amendment to H. B. 5, Sec. 2(d) by deleting the following from the 2nd sentence:

"Since the State upon escheat is entitled to all rights of the former owner," and capitalize the word "In."

The amendment was adopted.

Senator Gonzalez offered the following amendment to the pending amendment:

Amend the pending amendment to H. B. 5 by adding the following:

**Section 12(a):**

Provided that no fee, or service charge, or exaction shall be imposed by any person, as defined in this Act, or Bank, at such rates as to liquidate the dormant account, in the case of a Bank, or unclaimed funds or property in the case of all others.

The amendment was read.

Senator Baker raised the Point of Order that the amendment offered by Senator Gonzalez was not germane to the caption of the bill under consideration.

The President sustained the Point of Order ruling that the bill under consideration proposes to amend the escheat laws of this State. The amendment offered by Senator Gonzalez deals with the internal operation of banks—a subject which is separately treated in the Statutes. The amendment, therefore, is not germane to the bill as a whole or to the Section proposed to be changed.

Question: Shall the amendment by Senator Baker to H. B. No. 5 as amended be adopted?

**Recess**

On motion of Senator Aikin the Senate at 11:59 o'clock a.m. took recess until 2:30 o'clock p.m. today.

**After Recess**

The President called the Senate to order at 2:30 o'clock p.m. today.

**Message from the House**

Hall of the House of Representatives  
Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 166, To amend Article 1178 of the Penal Code of the State of Texas to provide additional Acts

which shall constitute the offense of kidnapping, providing a penalty therefor, providing for additional penalties, providing for venue, providing for exceptions, providing that this Act shall be cumulative; providing a saving clause; and declaring an emergency.

H. C. R. No. 40, Suspending the Joint Rules so either House may take up and consider House Bill No. 144 at any time.

H. C. R. No. 36, Suspending the Joint Rules so that either House may take up and consider House Bill No. 126 at any time.

H. C. R. No. 37, Suspending the Joint Rules so that either House may take up and consider House Bill No. 71 at any time.

H. C. R. No. 38, Suspending the Joint Rules so that either House may take up and consider H. B. No. 26 at any time.

S. B. No. 35, A bill to be entitled "An Act to prohibit on Sunday the sale or offer of sale at retail or by auction or any person who shall compel, force, or oblige his employees to sell or offer for sale certain named items; providing each sale or offer to sell shall constitute a separate offense; providing this Act shall not apply to sale or sales on Sunday for charitable purposes; to provide punishment for the offense; declaring violation to be a nuisance and authorizing person to apply and obtain an injunction restraining violation of this Act; exempting persons who conscientiously believe in and uniformly observe another day of the week as Sabbath and who do not personally or through others conduct or engage in business on that day; providing for severability; and declaring an emergency."

(With amendments.)

S. B. No. 54, A bill to be entitled "An Act to amend Chapter 36, Acts of the Regular Session of the 56th Legislature (Vernon's Annotated Civil Statutes, Article 1109-h) to more clearly define the elements to be included in the facilities to be constructed by an eligible city for final delivery of treated water to such city so as to include the provision of intermediate reservoirs to be used wholly or in part for storing water from the



water supply project, and to provide pumping equipment and pipeline facilities to and from such intermediate reservoirs; enacting other provisions related to the subject; and declaring an emergency."

S. B. No. 55, A bill to be entitled "An Act amending Article 1266 of the Revised Civil Statutes of Texas, 1925, as amended by Acts of 1959, Fifty-sixth Legislature, Page 563, Chapter 254, Section 1, relating to the discontinuing of territory as a part of certain cities; and declaring an emergency."

S. B. No. 59, A bill to be entitled "An Act validating the incorporation of cities and towns heretofore incorporated or attempted to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not more than six thousand (6,000); validating the boundary lines thereof; validating governmental proceedings; validating the adoption of Home Rule Charter; validating the charter so adopted and providing that such charter so adopted shall constitute the Home Rule Charter of such cities; validating elections held for the election of members of the governing body of such cities and the assumption of office; providing that this Act shall not be construed as validating the adoption of any charter if the validity of the charter or the charter adoption proceedings are involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof; providing a savings clause; and declaring an emergency."

(With amendments.)

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 10.

House has appointed the following Conferees: McGregor of El Paso, Kennard, Koriath, Nugent, and Rosas.

S. C. R. No. 27, Granting permission to National Lloyds to bring suit against the State of Texas.

Respectfully submitted,

DOROTHY HALLMAN,  
Chief Clerk, House of Representatives

House Bill 5 on Second Reading

The Senate resumed the consid-

eration of the pending business, same being H. B. No. 5 on its second reading, with an amendment by Senator Baker as amended pending.

Question—Shall the amendment by Senator Baker to H. B. No. 5 as amended be adopted?

Question on adoption of the amendment by Senator Baker as amended, yeas and nays were demanded.

The amendment failed of adoption by the following vote:

#### Yeas—14

Baker	Martin
Calhoun	Moffett
Colson	Moore
Creighton	Ratliff
Dies	Schwartz
Herring	Secrest
Kazen	Smith

#### Nays—16

Aikin	Lane
Crump	Owen
Fuller	Parkhouse
Gonzalez	Patman
Hardeman	Reagan
Hazlewood	Roberts
Hudson	Rogers
Krueger	Willis

#### Absent

Weinert

Senator Gonzalez offered the following amendment to the bill:

Amend H. B. 5 by deleting the word "except" on line 50 and substituting the word "including" in lieu thereof.

The amendment was read.

On motion of Senator Martin the amendment by Senator Gonzalez was tabled.

#### Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the motion to table the above amendment.

H. B. No. 5 was then passed to third reading.

#### Motion to Place

#### House Bill 5 on Third Reading

Senator Martin moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three

several days be suspended and that H. B. No. 5 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the Members present):

**Yeas—21**

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Patman
Creighton	Roberts
Crump	Rogers
Dies	Schwartz
Gonzalez	Secrest
Herring	Smith
Kazen	Willis
Krueger	

**Nays—9**

Fuller	Owen
Hardeman	Parkhouse
Hazlewood	Ratliff
Hudson	Reagan
Lane	

**Absent**

Weinert

**Bills Signed**

The President signed in the presence of the Senate after the captions had been read, the following enrolled bills:

S. B. No. 18, A bill to be entitled "An Act transferring a certain causeway located in Calhoun County, Texas, from the State Highway Department to the Texas State Parks Board; authorizing the State Game and Fish Commission to make necessary improvements in order to provide a serviceable fishing pier and to maintain such a pier; and declaring an emergency."

S. B. No. 54, A bill to be entitled "An Act to amend Chapter 36, Acts of the Regular Session of the 56th Legislature (Vernon's Annotated Civil Statutes, Article 1109-h) to more clearly define the elements to be included in the facilities to be constructed by an eligible city for final delivery of treated water to such city so as to include the provision of intermediate reservoirs to be used wholly or in part for storing water from the water supply project, and to provide pumping equipment and pipeline fa-

cilities to and from such intermediate reservoirs; enacting other provisions related to the subject; and declaring an emergency."

S. B. No. 55, A bill to be entitled "An Act amending Article 1266 of the Revised Civil Statutes of Texas, 1925, as amended by Acts of 1959, Fifty-sixth Legislature, Page 563, Chapter 254, Section 1, relating to the discontinuing of territory as a part of certain cities; and declaring an emergency."

S. B. No. 67, A bill to be entitled "An Act authorizing certain cities to issue refunding bonds due serially and bearing interest as provided in this Act for the purpose of refunding outstanding tax supported bonds adjudicated to be valid by a decree of the Federal Court, where the ordinance authorizing the issuance of such refunding bonds provides that not less than a rate of tax therein specified shall be levied, assessed and collected each year as long as any of such bonds or interest thereon are outstanding; providing that, in lieu of exchanging such new refunding bonds, they may be sold and the proceeds deposited in the bank where the outstanding bonds are payable; etc.; and declaring an emergency."

S. B. No. 69, A bill to be entitled "An Act validating the creation, abolition, boundaries, etc. of all school districts, etc., and declaring an emergency."

**House Bill 68 Ordered Not Printed**

On motion of Senator Willis and by unanimous consent H. B. No. 68 was ordered not printed.

**Senate Bill 35 with House Amendments**

Senator Moore called S. B. No. 35 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Moore moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

## Yeas—22

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Crump	Parkhouse
Dies	Ratliff
Gonzalez	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Willis

## Nays—8

Creighton	Lane
Fuller	Patman
Hardeman	Schwartz
Krueger	Smith

## Absent

Weinert

Conference Committee on  
House Bill 56

Senator Reagan called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 56 and moved that the request be granted.

The motion to grant the request prevailed.

Accordingly, the President announced the appointment of the following Conferees on the bill on the part of the Senate: Senators Reagan, Parkhouse, Roberts, Hardeman, and Gonzalez.

## Reports of Standing Committees

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred H. B. No. 71, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

Senator Colson by unanimous consent submitted the following report:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred H. B. No. 149, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

COLSON, Chairman.

## House Bill 71 Ordered Not Printed

On motion of Senator Smith and by unanimous consent H. B. No. 71 was ordered not printed.

## House Bill 63 on Second Reading

Senator Herring asked unanimous consent to suspend the regular order of business and take up H. B. No. 63 for consideration at this time.

There was objection.

Senator Herring then moved to suspend the regular order of business and take up H. B. No. 63 for consideration at this time.

The motion prevailed by the following vote:

## Yeas—20

Aikin	Moore
Baker	Owen
Colson	Patman
Dies	Ratliff
Gonzalez	Roberts
Hardeman	Rogers
Herring	Schwartz
Kazen	Secrest
Martin	Smith
Moffett	Willis

## Nays—10

Calhoun	Hudson
Creighton	Krueger
Crump	Lane
Fuller	Parkhouse
Hazlewood	Reagan

## Absent

Weinert

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 63, Amending the Election Code of the State of Texas, enacted by Chapter 492, Acts of the

Fifty-second Legislature, Regular Session, 1951, by adding thereto a new Article providing procedure, powers and duties for special elections for State Representative, State Senator, and United States Representative; repealing Article 126, Election Code of the State of Texas, codified as Article 8.44, Vernon's Texas Election Code; amending Sections 2, 3 and 4 of Article 32a, Election Code of Texas, 1951, as amended, relating to time for filing applications, filing fees, and party designation on application for place on ballot; and declaring an emergency.

The bill was read second time.

Senator Herring offered the following amendment to the bill:

Amend Section 3 of House Bill No. 63 by changing the words "twenty (20) days" in Section 2 of Article 32a of the Election Code, as amended therein, to "thirty (30) days."

HERRING  
MOORE

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend H. B. 63, Sec. 1, by striking out the words:

"State Representative or State Senator or" in subparagraph "32b, Section 1," and by striking the words "representative, senatorial or" and "State Representative, State Senator or" in subparagraph "Section 2," page 2; and by striking out the words "State Representative, State Senator, or" in subparagraph "Section 3" and by striking out of Sec. 3 all of subparagraphs (3) and (4) of paragraph "Section 2."

HARDEMAN  
WILLIS

The amendment was adopted.

(Senator Aikin in the Chair.)

Senator Hardeman offered the following amendment to the bill:

Amend House Bill 63 by adding a new Section between Section 2 and Section 3 to be known as Section 2A and to read as follows:

Section 2A. Article 194 of Chapter 492, Election Code of the State of Texas, Acts of the 52nd Legislature, Regular Session, 1951, codified as Article 13.16, Vernon's Texas Election

Code, is amended to read as follows:

"194. No candidate for nomination for State Senator or Representative shall be required to pay to the County Executive Committee to have his name placed on the primary ballot more than the following amounts:

1. Five Dollars (\$5.00) per county for counties having a population of less than five thousand (5000).

2. Ten Dollars (\$10.00) per county for counties having a population of five thousand (5,000) and not more than ten thousand (10,000).

3. Twenty-five Dollars (\$25.00) per county for counties having a population of more than ten thousand (10,000) and less than forty thousand (40,000).

4. Seventy-five Dollars (\$75.00) per county for counties having a population of forty thousand (40,000) and not more than two hundred thousand (200,000).

5. One Hundred Fifty Dollars (\$150.00) per county for counties having a population of not less than 200,000 and not more than 500,000.

6. One Hundred Dollars (\$100.00) per county for all senatorial districts composed of no more and no less than two (2) counties, regardless of the population of such counties.

In all counties having a population of more than five hundred thousand (500,000) candidates for State Representative shall pay a fee of Four Hundred Eighty Dollars (\$480.00) and candidates for State Senator shall pay a fee of Nine Hundred Sixty Dollars (\$960.00). The population in each case described above is to be determined by the last preceding Federal Census.

Provided, however, that this Article shall not amend or repeal the provisions of Section 186a of the Election Code as added by Chapter 494, Acts of the 55th Legislature, Regular Session, 1957. The payment must accompany the application and must be in the form of cash, check or certified check. The application and payment must be delivered before the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline."

Section 2. Section 1 of Chapter 494, Acts of the 55th Legislature, Regular Session, 1957, codified as Article 13.08a, Vernon's Texas Election Code, is amended to read as follows:

"Art. 13.08a. Assessment of Candidates in Counties of 800,000 or More Inhabitants. Candidates for any precinct, county or district office and the office of Congress in counties which have a population of eight hundred thousand (800,000) or more, according to the last preceding Federal Census, except candidates for the State Legislature and the State Board of Education, shall not be assessed a sum in excess of seven and one-half (7½%) of the aggregate annual salary provided for any office of two-year terms, and twelve and one-half per cent (12½%) of the aggregate annual salary provided for any office of four-year terms, to have their names placed on the ballot in any primary election. Candidates for the State Board of Education shall not be assessed a sum in excess of the amount stated in Section 186 of this Code.

Notwithstanding other provisions of law, the county executive committee in any county which has a population of Nine Hundred Thousand (900,000) or more, according to the last preceding Federal Census, may require candidates for State Senator to pay an amount not exceeding One Thousand Dollars (\$1,000.00) to have their names placed upon the ballot in a primary election, and may require candidates for State Representative to pay an amount not exceeding Five Hundred Dollars (\$500.00) to have their names placed upon the ballot in a primary election. A candidate for nomination for State Senator shall pay the full amount of One Thousand Dollars (\$1,000.00) at the time he files his application for a place on the ballot. A candidate for nomination for State Representative shall pay the full amount of Five Hundred Dollars (\$500.00) at the time he files his application for a place on the ballot. The payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check. The application and payment must be delivered to the proper party chairman or secretary by the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline. After the county executive committee makes the assessment as provided in Section 186 of this Code, it shall refund

to each candidate within thirty (30) days thereafter the amount of the payment in excess of the assessment against the candidate."

The amendment was read.

Senator Gonzalez raised the Point of Order that the amendment was not germane to the caption of the bill or the portion thereof which it was seeking to amend.

The Presiding Officer (Senator Aikin in the Chair) overruled the Point of Order, stating that the caption was broad enough since it was seeking to amend the Election Code.

The amendment by Senators Harde-  
man and Willis was then adopted.

(President in the Chair.)

Senator Moffett offered the following amendment to the bill:

Amend H. B. No. 63 by adding the following section to be numbered just before Sec. 4 and renumber the following sections to conform:

"Sec. 4. If any word, sentence, or provision of this Act or the application thereof, to any person or circumstance is held invalid, the invalidity shall not affect other provisions, or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable."

The amendment was adopted.

On motion of Senator Herring and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### Motion to Place

#### House Bill 63 on Third Reading

Senator Herring moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 63 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the Members present):

Yeas—19

Aikin

Baker

Colson	Owen
Dies	Patman
Hardeman	Reagan
Herring	Roberts
Kazen	Rogers
Krueger	Schwartz
Martin	Secrest
Moffett	Willis
Moore	

## Nays—10

Calhoun	Hudson
Creighton	Lane
Crump	Parkhouse
Fuller	Ratliff
Hazlewood	Smith

## Present—Not Voting

Gonzalez

## Absent

Weinert

(Senator Aikin in the Chair.)

Conference Committee Report on  
House Bill 56

Senator Reagan submitted the following Conference Committee Report on H. B. No. 56:

Austin, Texas,  
August 7, 1961.

Honorable Ben Ramsey, President of the Senate.

Honorable James Turman, Speaker of the House of Representatives.

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 56, have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form attached.

REAGAN  
HARDEMAN  
ROBERTS  
PARKHOUSE

On the part of the Senate.

PEELER

COLE

GLADDEN

JOHNSON of Bexar

HARING

On the part of the House.

H. B. No. 56,

A BILL

To Be Entitled

An Act amending Article 2919, Revised Civil Statutes of Texas, 1925,

to provide that the trustees of any school district shall, upon petition of twenty per cent (20%) of the qualified voters of the school district, call an election to determine whether or not a district shall establish and maintain a kindergarten; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 2919, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Section 1. The governing board of any school district in Texas is hereby authorized to establish and maintain as a part of the public free schools of said district one or more kindergartens for the training of children residing in said district who are under the scholastic age and who are at least five years of age.

"Section 2. The governing board of any school district shall, upon the petition of twenty per cent (20%) of the qualified voters residing within the school district, call an election within Sixty (60) days of the filing of such petition to determine by a majority vote of the legally qualified voters residing in such district whether or not the district shall establish and maintain a kindergarten as a part of the public free schools of such district. Such petition shall be filed between April 1st and June 1st of any year. At such election the ballot shall have printed thereon the following:

'FOR Public Kindergarten'

AGAINST Public Kindergarten'

If a majority of the votes cast at such election favor the exercise of the power herein granted, the governing board shall establish and maintain such kindergarten, or kindergartens, as such board deems in the best interests of the residents of the district as a part of the public free schools of the district for the training of children under the scholastic age down to and including five (5) years residing in the district, and shall establish such courses of training, study and discipline, and such rules and regulations governing such kindergartens as such board shall deem best. After voter approval of a kindergarten for a school district the governing board shall establish the kindergarten by the commencement date of the next scholastic year

following the year in which the election is held. The cost of establishing and maintaining such kindergartens shall be paid from the special school tax of said districts. The kindergartens shall be a part of the public school system and shall be governed, as far as practicable in the same manner and by the same officers as are or may be provided by law for the government of the other public schools of the State.

"Section 3. If an election should be called and held hereunder in any school district and the proposition should fail to receive a majority of the votes cast, then no additional election shall be called on such proposition in such school district until at least one (1) year after the date that such prior election was held.

"Section 4. This Act shall have no effect upon the validity or invalidity of any kindergarten presently existing in any school district in this State."

Sec. 2. The importance of this legislation and the crowded condition of the calendar in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was read and was adopted by the following vote:

## Yeas—29

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Willis
Krueger	

Absent

Moore Weinert

## Senate Bill 59 with House Amendments

Senator Roberts called S. B. No. 59

from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Roberts moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

## Yeas—29

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hazlewood	Rogers
Herring	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis
Lane	

Nays—1

Hardeman

Absent

Weinert

(President in the Chair)

## House Bill 67 on Second Reading

Senator Fuller moved to reconsider the vote by which H. B. No. 67 failed to pass to third reading on Saturday, August 5, 1961. (Senator Fuller having voted on the prevailing side.)

The motion prevailed by the following vote:

## Yeas—17

Aikin	Moore
Baker	Patman
Colson	Reagan
Fuller	Roberts
Gonzalez	Schwartz
Hazlewood	Secrest
Hudson	Smith
Kazen	Willis
Lane	

Nays—13

Calhoun	Crump
Creighton	Dies

Hardeman  
Herring  
Krueger  
Martin  
Moffett

Owen  
Parkhouse  
Ratliff  
Rogers

Absent

Weinert

Question—Shall H. B. No. 67 be passed to third reading?

Senator Moore moved to reconsider the vote by which his amendment to H. B. No. 67 was adopted on Saturday, August 5, 1961.

The motion to reconsider prevailed.

Question—Shall the amendment by Senator Moore to H. B. No. 67 be adopted?

Senator Moore offered the following amendment to the pending amendment:

Amend Amendment No. 2 by deleting Section 15 from said amendment.

The amendment to the pending amendment was adopted.

The amendment as amended was then adopted.

H. B. No. 67 as amended was then passed to third reading.

#### Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the passage of H. B. No. 67 to third reading.

#### Motion to Place

##### House Bill 67 on Third Reading

Senator Fuller moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 67 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the members present).

#### Yeas—18

Aikin  
Baker  
Colson  
Fuller  
Gonzalez  
Hazlewood  
Hudson

Kazen  
Lane  
Moore  
Parkhouse  
Patman  
Reagan  
Roberts

Schwartz  
Secrest

Smith  
Willis

#### Nays—11

Calhoun  
Creighton  
Crump  
Dies  
Hardeman  
Herring

Krueger  
Martin  
Owen  
Ratliff  
Rogers

Absent

Moffett

Weinert

#### House Bills on First Reading

The following bills received from the House, were read the first time and referred to the Committees indicated:

H. B. No. 52, to Committee on Game and Fish.

H. B. No. 166, to Committee on Jurisprudence.

#### Reports of Standing Committees

Senator Aikin by unanimous consent submitted the following reports:

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your committee on Counties, Cities and Towns, to whom was referred H. B. No. 74, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

Austin, Texas,  
August 7, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your committee on Counties, Cities and Towns, to whom was referred H. B. No. 156, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

#### House Bill 156 ordered not Printed

On motion of Senator Owen and by unanimous consent, H. B. No. 156 was ordered not printed.



**House Bill 66 on Second Reading**

Senator Krueger asked unanimous consent to suspend the regular order of business and take up H. B. No. 66 for consideration at this time.

There was objection.

Senator Krueger then moved to suspend the regular order of business and take up H. B. No. 66 for consideration at this time.

The motion prevailed by the following vote:

Yeas—23

Aikin	Martin
Colson	Moffett
Creighton	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Herring	Rogers
Hudson	Schwartz
Kazen	Secrest
Krueger	Smith
Lane	

Nays—6

Baker	Owen
Calhoun	Roberts
Hazlewood	Willis

Absent

Hardeman	Weinert
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The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 66, A bill to be entitled "An Act to amend the subject matter of the Texas Unemployment Compensation Act, as amended, and as embraced in Section 3 providing benefits and by adding to Section 3 a new subsection to be known as (e) defining "Wages" as used in Section 3(e), Section 4 providing benefit eligibility conditions and by adding to Section 4 a new subsection to be known as (f) providing for a one (1) week waiting period prior to the payment of benefits, Section 5 providing for disqualification for benefits, and Section 7 providing for contributions, as amended, (Senate Bill No. 5, Chapter 482, General and Special Laws of the Forty-fourth Legislature, Third Called Session, 1936, as amended); providing for the repeal of all laws and parts of laws in conflict herewith and

for preserving rights accrued thereunder; providing for the separability of provisions; providing an effective date for this Act; and declaring an emergency."

The bill was read second time.

Senator Hazlewood offered the following amendment to the bill:

Amend Section 1 of H. B. No. 66 by striking the words and figures "one twenty-fifth (1/25)" in subparagraph (b) of Section 3 of the Act and substituting in lieu thereof the words and figures "one twenty-sixth (1/26)."

The amendment was read.

On motion of Senator Herring the amendment was tabled.

**Record of Vote**

Senator Krueger asked to be recorded as voting "Nay" on the motion to table the above amendment.

Senator Willis offered the following amendment to the bill:

Amend H. B. No. 66 by striking out Section 4 and renumbering the following sections in proper sequence.

The amendment was read.

On motion of Senator Schwartz the amendment was tabled.

Senator Roberts offered the following amendment to the bill:

Amend H. B. No. 66, subsection 7(c), by adding a sentence after line 7 ending with the word "chargebacks" as follows:

Chargebacks to an employer's account shall be on a quarterly basis with  $\frac{1}{4}$  of the annual earnings being charged at each time.

The amendment was read.

On motion of Senator Krueger the amendment was tabled.

The bill as amended was passed to third reading.

**House Bill 66 on Third Reading**

Senator Krueger moved that Senate Rule 32 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 66 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—27

Aikin	Martin
Calhoun	Moffett
Colson	Moore
Creighton	Owen
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Schwartz
Kazen	Secrest
Krueger	Smith
Lane	

## Nays—2

Baker	Willis
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## Absent

Hardeman	Weinert
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The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and passed.

#### House Concurrent Resolution 23 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 23, Granting permission to the Tarrant Distributing Company to bring in the State of Texas as a third party defendant in any suit filed against said Tarrant Distributing Company by the estate of Bert K. Smith.

The resolution was read.

By unanimous consent the resolution was considered immediately and was adopted.

#### House Bill 68 on Second Reading

Senator Moore moved that Senate Rules 13, 32, and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 68 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—28

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hazlewood	Rogers
Herring	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

## Nays—1

Lane
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## Absent

Hardeman	Weinert
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The President then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 68, A bill to be entitled "An Act amending Chapter 4, Title 75, of the Revised Civil Statutes of Texas, 1925, as amended, by adding a new Article after Article 4639a, to be known as Article 4639b, Vernon's Texas Civil Statutes, pertaining to the support of children who require custodial care; providing a severance clause; repealing all laws in conflict; and declaring an emergency."

The bill was read the second time and was passed to third reading.

#### House Bill 68 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the President laid H. B. No. 68 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

#### Record of Votes

Senators Hardeman and Lane asked to be recorded as voting "Nay" on the final passage of H. B. No. 68.

#### House Concurrent Resolution 35 on Second Reading

Senator Martin asked unanimous consent to suspend the regular order of business and take up H. C. R. No. 35 for consideration at this time.

There was objection.

Senator Martin then moved to suspend the regular order of business and take up H. C. R. No. 35 for consideration at this time.

The motion prevailed by the following vote:

#### Yeas—20

Aikin	Krueger
Baker	Martin
Calhoun	Moffett
Colson	Moore
Creighton	Patman
Crump	Roberts
Dies	Rogers
Gonzalez	Schwartz
Herring	Secrest
Kazen	Willis

#### Nays—10

Fuller	Owen
Hardeman	Parkhouse
Hazlewood	Ratliff
Hudson	Reagan
Lane	Smith

#### Absent

Weinert

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 35, Suspending the Joint Rules of both Houses in order to take up and consider House Bill No. 5 at any time.

The resolution was read and was adopted.

#### Record of Vote

Senator Hardeman asked to be recorded as voting "Nay" on the adoption of the above resolution.

#### House Bill 165 on Second Reading

On motion of Senator Calhoun and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 165, Amending Title 82 of the Revised Civil Statutes of Texas, 1925, as amended, by adding a new Article thereto to be known as Article 5139E-1, establishing and constituting a Juvenile Board in certain counties to be composed of the Coun-

ty Judge and District Judges; designating a chairman and administrative officer therefor and providing an official name therefor; . . . etc.; and declaring an emergency.

The bill was read second time and passed to third reading.

#### House Bill 165 on Third Reading

Senator Calhoun moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 165 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—30

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Colson	Moore
Creighton	Owen
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

#### Absent

Weinert

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Senate Concurrent Resolution 28

Senator Herring offered the following resolution:

S. C. R. No. 28, Suspending Joint Rules to consider H. B. No. 63 at any time.

Be it resolved by the Senate, the House of Representatives concurring, That the provisions of Rule 9 of the Joint Rules of the Senate and House of Representatives are hereby suspended in order that House Bill 63 may be considered at any time before final adjournment of the First Called Session of the 57th Legislature.

The resolution was read.

Senator Herring asked unanimous consent to suspend the regular order of business and consider the resolution immediately.

There was objection.

Senator Herring then moved to suspend the regular order of business and consider the resolution immediately.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

**Yeas—19**

Aikin	Moore
Baker	Owen
Colson	Patman
Dies	Reagan
Hazlewood	Roberts
Herring	Rogers
Kazen	Schwartz
Krueger	Secrest
Martin	Willis
Moffett	

**Nays—11**

Calhoun	Hudson
Creighton	Lane
Crump	Parkhouse
Fuller	Ratliff
Gonzalez	Smith
Hardeman	

**Absent**

Weinert

**House Bill 71 on Second Reading**

On motion of Senator Smith and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 71, A bill to be entitled "An Act relating to Water Supply or Sewer Service Corporations amending Sections 3, 5, 6, and 8 of Chapter 76, Acts of the 43rd Legislature, First Called Session, 1933, as amended to provide for increasing the number of directors by amendment to the by-laws, for making the requirement of a bond of the officers discretionary with the board of directors; for making the handling of the business by a manager discretionary with the board of directors; for selecting as a depository a bank which is insured

with the Federal Deposit Insurance Corporation; adding a new section exempting the corporation from the Texas Securities Act; and declaring an emergency."

The bill was read second time and passed to third reading.

**House Bill 71 on Third Reading**

Senator Smith moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 71 be placed on its third reading and final passage.

The motion prevailed by the following vote:

**Yeas—28**

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

**Nays—1**

Herring

**Absent**

Moore

Weinert

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

**Yeas—29**

Aikin	Krueger
Baker	Lane
Calhoun	Martin
Colson	Moffett
Creighton	Moore
Crump	Owen
Dies	Parkhouse
Fuller	Patman
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Hudson	Rogers
Kazen	Schwartz

Secrest Smith	Willis	<b>Memorial Resolution</b>
	Nays—1	S. R. No. 69, By Senator Moore: Memorial Resolution for Cecil Vick Lindley, Jr.
Herring	Absent	<b>Welcome Resolutions</b>
Weinert		S. R. No. 71, By Senator Herring: Extending welcome to Steve Cox of Austin.
<b>House Bill 149 Ordered Not Printed</b>		S. R. No. 72, By Senator Creighton: Extending welcome to Mr. and Mrs. John G. Campbell and children of Mineral Wells.
On motion of Senator Baker and by unanimous consent H. B. No. 149 was ordered not printed.		S. R. No. 73, By Senator Smith: Extending welcome to Ruth D. Puchek of Honolulu, Hawaii, et al.
<b>Report of Standing Committees</b>		S. R. No. 74, By Senators Owen and Hudson: Extending welcome to Captain and Mrs. Carl Heis and chil- dren of Harlingen.
Senator Krueger by unanimous consent submitted the following re- port:		<b>Adjournment</b>
	Austin, Texas, August 7, 1961.	On motion of Senator Aikin the Senate at 5:42 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.
Hon. Ben Ramsey, President of the Senate.		
Sir: We, your committee on Game and Fish, to whom was referred H. B. No. 52, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.		
KRUEGER, Chairman.		

**In Memory of**  
**Walter H. Holzmann**

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Senator Moore offered the following resolution:

(Senate Resolution 70)

Whereas, In the passing of Walter H. Holzmann on the thirtieth day of July, 1961, the city of College Station lost one of its most worthy citizens; and

Whereas, Mr. Holzmann was born on June 25, 1887, at New Braunfels, Texas, where he went to work as a youth for the I&GN Railroad, now the Missouri Pacific, as an office boy, completing his high school work by correspondence. He worked as a clerk, telegrapher and station agent for the railroad from 1900 to 1912, serving in New Braunfels, Kyle, Dilley, Madisonville, Calvert, Bedias and other Texas towns; and

Whereas, In 1912 he became cashier of the First State Bank of Bedias, Texas, from which position he resigned to become cashier of A. & M. College in 1922. He served in that capacity until he became the first comptroller and business manager of A. & M. College; and

Whereas, Mr. Holzmann was nationally recognized as a leader in fiscal administration of educational institutions. During the period of his management of the fiscal affairs of the College, its physical plant grew from a value of around four million to more than thirty-eight million dollars; and

Whereas, After thirty-one years of service at A. & M. College, Mr. Holzmann was retired to modified service in 1953 and had been on full retirement since 1957; and

Whereas, His contributions to his community, to the State of Texas, and to the betterment of society itself won the esteem of all who knew him; and

Whereas, Mr. Holzmann is survived by his wife, Mrs. Ethel McAdams Holzmann; one daughter, Mrs. Wilma Nowotny of Lackland Air Force Base, San Antonio, Texas; a granddaughter, Mrs. Jo Ann Richardson of Beale AFB, California; one sister, Mrs. Lina Meckel of New Braunfels; and two brothers, H. J. Holzmann of Austin, Texas and C. B. Holzmann of Bryan, Texas; now, therefore, be it

Resolved, That it is the desire of the Senate of the Fifty-seventh Legislature to pay tribute to this outstanding citizen; and be it further

Resolved, That when the Senate adjourns today it do so in his memory and that a page of the permanent Senate Journal be devoted to the recording of this resolution; and be it further

Resolved, That an enrolled copy of this resolution be sent to the surviving members of his family as a token of respect and sympathy.

The resolution was read and was adopted by a rising vote of the Senate.